KRISTINA McKIBBEN (CA SBN 283047)
Community Justice Alliance
1809 S Street, Suite 101 Box 291
Sacramento, CA 95811
Telephone: (888) 585-4917
Email: kmckibben@cjaca.org

Pro Bono Attorney for Petitioner,
Sergio SOSA MIRANDA

UNITED STATES DISTRICT COURT
EASTERN DISTRICT

Sergio SOSA MIRANDA,

Petitioner,

vs.

Kristi NOEM, Secretary, U.S. DEPARTMENT OF HOMELAND SECURITY; CHRISTOPHER CHESTNUT, Warden of California City Detention Facility; SERGIO ALBARRAN, Acting Field Office Director of Enforcement and Removal Operations, TODD LYONS, Acting Director of Immigration and Customs Enforcement; Pamela BONDI, U.S. Attorney General; acting in their official capacities,

Respondents.

Case No.: _____

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. §2241

PETITIONER'S DHS A# [redacted]

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INTRODUCTION

1. This case is about a 20-year-old with Special Immigrant Juvenile Status, currently held in immigration custody, who cannot be removed from the United States because he has a valid grant of Deferred Action.

2. On or around December 15, 2025, Respondents arbitrarily detained Petitioner at his home without a warrant or notice in violation of the Due Process Clause of the Fifth Amendment to the United States Constitution, the Fourth Amendment to the United States Constitution, and his statutory rights under the Immigration and Nationality Act ("INA") and the Administrative Procedure Act ("APA").

3. Petitioner Sergio SOSA MIRANDA ("Petitioner" or "Sergio") was first apprehended and detained by immigration officials in Texas after crossing the border on or around August 03, 2022. Department of Homeland Security - Customs and Border Protection detained 17-year-old Sergio, and he was released on September 10, 2022, to his father in Sacramento County pursuant to the Homeland Security Act of 2022, Sec. 462 and the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (applicable to unaccompanied children). *Declaration of Kristina McKibben* ¶3, *Exhibit (hereinafter "Exh.") A., Warrant for Arrest of Alien*; *Exh.* B. *Verification of Release*.

4. Sergio has now been re-detained over three years later, after approximately five United States Immigration and Customs Enforcement ("ICE") agents came to his home on or around December 15, 2025, and arrested him without notice, warrant, or explanation. Furthermore, ICE is detaining Sergio at California City Detention Facility despite administratively closed removal proceedings before the Executive Office of Immigration Review ("EOIR" or "Immigration Court") and a grant of deferred action and employment authorization, by Department of Homeland Security, that prevents his removal. *Decl. of Kristina McKibben* ¶¶13, 14, 21; *Exh.* C: Form I-862, Notice to Appear; *Exh.* D: Form I-797: Notice of Action - Approval Notice; *Exh.* E: Employment Authorization; and *Exh.* F: EOIR Immigration Judge Order (denying ICE's July 2025 Motion to Recalendar Sergio's removal proceedings).

5. Sergio came to the United States from Guatemala when he was 17 years old, after

suffering severe physical abuse by his mother, enduring child labor since he was 10, and fearing for his safety. *Id.*

6. On May 5, 2023, EOIR agreed to administratively close Sergio's immigration removal case. *See Id. Exh.* F; in June 2023, a California juvenile court determined that it was not in Sergio's best interest to return to Guatemala; and in April, 2024, U.S. Department of Homeland Security - U.S. Citizenship and Immigration Services ("USCIS") approved Sergio for Special Immigrant Juvenile Status ("SIJS")[1] based on the state court findings. *Id., Exh.* D.

7. Under a USCIS policy designed to protect these vulnerable youth during this wait, on April 18, 2024, Sergio also received a four-year, renewable grant of deferred action. *Id. Exh.* D. He received accompanying employment authorization just weeks later. *Id. Exh.* E. The years following his release from ORR custody allowed him to attend school, secure work authorization and gainful employment, access medical care for a neurological defect, a heart condition, and access mental health needs. He built a stable life in the United States without the threat of deportation while he waits to apply for a green card.

8. Despite Sergio's grant of deferred action and work authorization, and despite the fact he has no criminal convictions[2], ICE arrested him without a warrant on December 15, 2025.

9. Upon his arrest, he was not afforded an opportunity to contest the alleged basis for his arrest and re-detention.

10. As a result of his arrest and detention, Petitioner is suffering irreparable and ongoing harm. The unconstitutional deprivation of "physical liberty" "unquestionably constitutes irreparable injury." *Hernandez v. Sessions*, 872 F.3d 976, 994-95 (9th Cir. 2017). Indeed, "[f]reedom from imprisonment-from government custody, detention, or other forms of physical restraint-lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v.*

---

[1] SIJS is a humanitarian immigration protection enshrined in federal statute that is designed to afford certain immigrant children who have suffered parental abuse, neglect, abandonment, or similar mistreatment the opportunity to remain safely and permanently in the United States. However, because of a visa backlog, young people with SIJS must wait-often years-before they are able to apply for a green card and gain lawful permanent resident ("LPR") status.

[2] Sergio received a citation in Placer County for a misdemeanor, Cal. Penal Code 647(f), Drunk Disorderly Conduct, for which he was processed and released and has not been charged nor convicted.

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Davis, 533 U.S. 678, 690 (2001).

11. Petitioner, who has a pre-existing heart condition as well as a neurological condition requiring medication, is now sick with a persistent and unmitigated cough and constant, searing tooth pain. Despite two medical request submissions, he has not been seen for dental care or offered any treatment for any of the aforementioned conditions. Instead, he is kept in a freezing cold room and one day was offered a single meal after nearly twelve hours. *Decl. of Kristina McKibben,* ¶¶12, 26, 27.

12. Detaining or deporting Sergio would completely undermine the purpose of the SIJS statute. Through his grant of SIJS, Sergio is on a path to permanent lawful status, which he must remain in the United States to access. Respondents' efforts to block Sergio from accessing the protections Congress specifically enacted for the benefit of children like him improperly subverts Congress' intent that he be permitted to adjust status and establish a stable life in the United States.

13. Because Sergio cannot be removed, his ongoing detention-particularly without any individualized review-serves no lawful purpose and runs afoul of the substantive and procedural due process protections of the Fifth Amendment. Sergio brings this habeas petition challenging his unlawful arrest and detention. Sergio seeks immediate release from detention on the basis that his arrest was unlawful, his detention serves no lawful purpose, and his removal is not reasonably foreseeable. "Freedom from imprisonment-from government custody, detention, or other forms of physical restraint-lies at the heart of the liberty that Clause protects." *Zadvydas*, 533 U.S. at 679.

14. This Court should expeditiously grant this petition.

JURISDICTION

15. Petitioner is in the physical custody of Respondents. Petitioner is detained at the California City Detention Facility in Kern County, California.

16. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. §1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

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17. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. §2201 *et seq.*, and the All Writs Act, 28 U.S.C. §1651.

VENUE

18. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Eastern District, the judicial district in which Petitioner currently is detained.

19. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Eastern District.

REQUIREMENTS OF 28 U.S.C. § 2243

20. Habeas corpus is "perhaps the most important writ known to the constitutional law ... affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

21. Petitioner, **Sergio SOSA MIRANDA**, is alleged to be a citizen of Guatemala who has been held by ICE at the California City Detention Facility since December 15, 2025. Sergio has lived in Sacramento County since September 10, 2022, and is in Special Immigrant Juvenile Status (SIJS) with deferred action and work authorization. *Decl. of Kristina McKibben, Exh. B and. D.* After ICE agents arbitrarily arrested Petitioner at his home in Sacramento County, on or around December 15, 2025, his immigration removal case remained closed, and Petitioner has had no access to immigration officials in the California City Detention Facility to compel a hearing. *Id., Exh. G: EOIR Public Access Portal* (reflecting no pending hearings as of December 21, 2025).[3] An immigration judge previously ordered Sergio's EOIR removal proceedings

[3] https://acis.eoir.justice.gov/en/caseInformation (last accessed 12/21/2025)

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administratively closed on May 3, 2023, and denied ICE's Motion to Re-calendar Sergio's removal proceedings in July, 2025. *Id., Exh. F and G.* There has been no change to Sergio's immigration status since these immigration court orders and his removal proceedings remain administratively closed according to a public access portal. *Id.*

22. Respondent **Sergio Albarran** is the Director of the San Francisco Field Office of ICE's Enforcement and Removal Operations division. As such, Sergio Albarran is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

23. Respondent **Kristi Noem** is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

24. Respondent **Department of Homeland Security** (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

25. Respondent **Pamela Bondi** is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

26. Respondent **Executive Office for Immigration Review (EOIR)** is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

27. Respondent **Christopher Chestnut** is Warden of the California City Detention Facility where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

LEGAL FRAMEWORK

A. SIJS Provides a Pathway to Permanent Status for Certain Vulnerable Young People

28. In 1990, Congress created SIJS to protect vulnerable immigrant children and

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provide them a pathway to citizenship. Immigration Act of 1990, Pub. L. No. 101-649, § 153, 104 Stat. 4978 (1990) (amending various sections of the Immigration and Nationality Act "INA")); Special Immigrant Status, 58 Fed. Reg. 42843, 43844 (Aug. 12, 1993) ("This rule alleviates hardships experienced by some dependents of United States juvenile courts by providing qualified [noncitizens] with the opportunity to apply for special immigrant classification and lawful permanent resident status, with [the] possibility of becoming citizens of the United States in the future."). Since 1990, Congress has amended the INA multiple times to expand the protections of SIJS, most recently in 2008, through the Trafficking Victims Protection Reauthorization Act, Pub.L. 110-457, § 235(d), 122 Stat. 5044 (2008).

29. To be granted SIJS, youths, like Sergio, must first "satisfy[] a set of rigorous, congressionally defined eligibility criteria." *Osorio-Martinez v. U.S. Att'y Gen.*, 893 F.3d 153, 163 (3d Cir. 2018). Specifically, the INA provides that those eligible for SIJS designation, as relevant here, are noncitizen youth who are present in the United States; who have been declared dependent on a state juvenile court; who cannot be reunified with one or more parents because of abuse, neglect, or abandonment; and for whom it has been determined that it is not in their best interest to return to their country of origin. 8 U.S.C. § 1101(a)(27)(J); 8 C.F.R. § 204.11(c).

30. Crucially, a noncitizen youth is eligible for SIJS only if he or she is "present in the United States." 8 U.S.C. § 1101(a)(27)(J) (emphasis added). This requirement makes perfect sense in light of the purpose of the SIJS statute. SIJS is predicated on a state court finding that the youth cannot be safely reunited with parent(s), nor safely sent back to their country of origin. The design of this program, then, "show[s] a congressional intent to assist a limited group of abused children to remain safely in the country with a means to apply for LPR status." *Garcia v. Holder,* 659 F.3d 1261, 1271 (9th Cir. 2011) (abrogated on other grounds).

31. Youth can apply for SIJS upon receipt of a state court order finding they cannot be safely reunited with parent(s) nor safely sent back to their country of origin. The application process includes submitting a Form I-360 SIJS Petition to USCIS, along with the predicate state court order and other supporting evidence. See 8 C.F.R. § 204.11(b). USCIS then considers the application and supporting documentation to determine whether to exercise its statutory "consent

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function" to approve the petition. *See* 8 U.S.C. § 1101(a)(27)(J)(iii). By exercising its statutory consent function to grant SIJS, the agency recognizes the state court's determinations, including that the child's return to their country of origin would be contrary to their best interests. 8 U.S.C.§ 1101(a)(27)(J)(iii).

32. SIJS may be revoked only for what the Secretary of Homeland Security deems "good and sufficient cause." 8 U.S.C. § 1155; 8 C.F.R. § 205.2. According to USCIS regulations, such revocation must be made upon notice to the youth in question, who must be permitted the opportunity to submit evidence in opposition to the revocation and to appeal an adverse decision. *See* 8 C.F.R. § 205.2. If status is ultimately revoked, the youth is entitled to notice and the opportunity to appeal the decision. *See* 8 C.F.R. § 205.2(c) & (d). Revocation of a SIJS petition may only be performed by a USCIS officer authorized to approve such petition in the first instance. *See* 8 C.F.R. § 205.2(a).

33. The main benefit of SIJS—and indeed, its core purpose—is that it confers on vulnerable young people like Sergio the right to seek LPR status while remaining in the United States, through a process called adjustment of status. See 8 U.S.C. 1255(h).

34. To facilitate this process, Congress removed numerous barriers to adjustment of status for SIJS beneficiaries through amendments to the SIJS provisions in 1991 and again in 2008. For example, SIJS youth are "deemed . . . to have been paroled into the United States" for the purposes of adjustment of status. 8 U.S.C. § 1255(h)(1). Further, Congress exempted SIJS youth from many common inadmissibility grounds and created a generous waiver of many of the nonexempted inadmissibility grounds. 8 U.S.C. § 1255(h)(2). Congress explicitly provided that certain grounds for removal "shall not apply to a special immigrant described in section 1101(a)(27)(J) of this title [the SIJS statute] based upon circumstances that existed before the date the [noncitizen] was provided such special immigrant status." 8 U.S.C. § 1227(c).

35. Although SIJS renders youth eligible to apply for adjustment of status to lawful permanent resident ("green card"), they can only do so when a visa is immediately available to them. 8 U.S.C. § 1255(h). However, there is an annual limit on visas available to SIJS beneficiaries. 8 U.S.C. § 1153(b)(4). Since 2016, the number of SIJS beneficiaries has surpassed

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the supply of available visas for most countries, leaving what has been estimated to be more than 100,000 young people in a backlog, waiting to apply for a green card.

36. Despite the immediate unavailability of visas, waitlisted SIJS beneficiaries are the same vulnerable young people that the SIJS statute was designed to protect. The fact that no visa is currently available because a numerical limit has been reached changes nothing about their eligibility determination by USCIS, or Congress's intent that they be afforded a pathway to LPR status and, eventually, citizenship. These are the same individuals who state courts have determined cannot safely be reunited with their parent(s) or returned to their home country.

37. Taken together, the structure of the SIJS program—including the requirement that recipients remain in the United States to move forward in the process, the grant of parole for the purpose of adjustment, and the waiver of grounds of inadmissibility and removability—evinces Congress' intent that SIJS recipients remain safely in the United States until they can adjust to become LPRs.

B. Deferred Action Gives Meaning to Congress' Intent That SIJS Beneficiaries Be Protected

38. In March 2022, to address the SIJS visa backlog, USCIS announced that all young people granted SIJS would also be considered for a discretionary grant of deferred action, meaning that they would be protected from deportation while waiting for a visa to become available. In enacting this policy, USCIS itself acknowledged that "Congress likely did not envision that SIJ petitioners would have to wait years before a visa became available …" Persons granted deferred action are shielded from deportation and are eligible to apply for employment authorization under 8 C.F.R. § 274a.12(c)(14).

39. Importantly, "USCIS has the sole authority to grant and terminate deferred action for noncitizens with SIJS classification." And, generally, USCIS may only terminate deferred action "if the SIJ-classified individual was not eligible at the time of the initial grant of deferred action, the SIJ Form I-360 is revoked, or if they are no longer eligible based on new information." Id.

40. Deferred action does not confer lawful status and does not prevent an immigration judge from issuing a removal order. However, unless and until terminated, **a grant of deferred**

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action prevents immigration authorities from physically removing a noncitizen from the United States. See USCIS Policy Manual, Vol. 6: Immigrants, Part J: Special Immigration Juveniles, Ch.4: Adjudication; *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 484 (1999) (emphasis added).

41. In June 2025, USCIS rescinded the SIJS deferred action policy, deciding to no longer consider granting deferred action to SIJS youth waiting to apply for a green card. On November 19, 2025, a court stayed the abrupt recission of SIJS deferred action. See *A.C.R. et al. v. Noem et al.*, No. 1:25-cv-03962, (E.D.N.Y) However, even if the recission of deferred action prevailed, this policy change has no impact on SIJS beneficiaries who *already* received deferred action.

42. Once deferred action is granted, fundamental procedural due process protections attach to the recipient, such as the right to notice and an opportunity to contest the revocation of deferred action. See *Maldonado v. Noem*, No. 4:25-CV-2541, 2025 WL 1593133, at *2 (S.D. Tex. June 5, 2025) (finding that Petitioner was "likely to succeed on his Due Process claim" because he was denied "notice, a hearing, or any opportunity to contest the revocation of his deferred action.").

FACUAL ALLEGATIONS

A. Petitioner is Unlawfully Arrested at Home

43. Petitioner, Sergio, is a 20-year-old resident of Sacramento County in current Special Immigrant Juvenile Status (SIJS) with deferred action and employment authorization.

44. On August 3, 2022, he entered the United States at 17 years old, and after apprehension, the Department of Homeland Security designated him an unaccompanied minor pursuant to 6 USC § 279(g)(2). *Exh. A and. B* (verifying Sergio's release to his father as a designated unaccompanied child).

45. On September 10, 2022, following a brief detention at an Office and Refugee Resettlement (ORR) shelter in Texas, Sergio was released on his own recognizance and reunified with his father in Sacramento County, California. *Id.*

46. Having fled Guatemala after suffering severe physical abuse by his mother, enduring child labor since he was 10 years old and fearing for his safety, Sergio found safety with his

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father in Sacramento County where he sought treatment for a heart condition and a neurological defect while making the Honor Roll during his time at [redacted]

47. On May 5, 2023, EOIR agreed to administratively close Sergio's immigration removal case for him to seek a best interest determination by a state juvenile court. *Decl. of Kristina McKibben., Exh. G.*

48. In June 2023, a California juvenile court determined that it was not in Sergio's best interest to return to Guatemala, and to remain in the care of his father, issuing a predicate order to apply to U.S. Department of Homeland Security – USCIS for Special Immigrant Juvenile Status (SIJS). *See generally id., Exh. D* (approved SIJS petition, based on state court predicate order).

49. On April 18, 2024, USCIS granted Sergio's application for SIJS and concurrently granted him deferred action. Sergio received an I-797A Notice of Action, which stated: "USCIS has determined that you warrant a favorable exercise of discretion to receive deferred action. As a result, you have been placed in deferred action and you may be issued an employment authorization document." *See id., Exh. D*, I-797 Notice of Action. The notice states: "Your grant of deferred action will remain in effect for a period of four years from the date of this notice unless terminated earlier by USCIS." *Id.* Therefore, Sergio's deferred action does not expire until April 17, 2028. While USCIS is a subagency of Department of Homeland Security, like ICE and CBP, USCIS has sole authority to rescind SIJS or deferred action. *See* 8 C.F.R.§§204.11(d).

50. On September 02, 2025, after ICE motioned to re-calendar Sergio's removal proceedings despite his SIJS grant and his protection from immigration enforcement with the grant of deferred action, the U.S. Department of Justice - EOIR ("Immigration Court") denied ICE's motion to re-calendar Sergio's removal proceedings. See *Id., Exh. F.* His removal proceedings remained administratively closed, as they do today. See *Id., Exh. G.*

51. On December 15, 2025, approximately 5 individuals, presumed to be ICE agents, detained Sergio at his home without notice or opportunity to respond. On information and belief, the individuals asked Sergio to come outside to verify his identification because he had an upcoming court date and "then [he would] be free to go." Sergio did not have an upcoming court

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date, but offered to show his ID through the gate. This is when the individuals aggressively grabbed Sergio, arrested him and refused to answer questions. These individuals transported Sergio to the ICE Sacramento Field Office, took his biometrics and saliva, and told him he would be transported "somewhere." *Decl. of Kristina McKibben* ¶25

52. Sergio is currently detained in California City Detention Facility. *Id.*

B. As a Result of His Arrest and Detention, Petitioner is Suffering Ongoing and Irreparable Harm

53. Petitioner is being deprived of his liberty without any permissible justification. Department of Homeland Security previously released Sergio from detention, and later granted him deferred action, because he did not pose sufficient risk of flight or danger to the community to warrant detention. Indeed, Sergio's EOIR immigration judge has twice ordered that his immigration removal proceedings be administratively closed.

54. None of that has changed. Upon information and belief, Petitioner has no criminal convictions, and he is not a flight risk as demonstrated by his compliance with all court hearings, address changes, and eager compliance with the ICE agents to present information on or around December 15, 2025, when they lied to him about verifying identification.

55. California City Detention Facility, where Petitioner is detained, is over 350 miles from his home in the Sacramento Area. The facility is the subject of a recently filed class action lawsuit alleging widespread abuse and neglect of detainees and deprivation of their constitutionally protected rights. As described in the Complaint filed in that case:

> *Conditions at California City Detention Facility are dire. The facility is decrepit. Sewage bubbles up from the shower drains, and insects crawl up and down the walls of the cells. People are locked in concrete cells the size of a parking space for hours on end, and officers threaten them with violence and solitary confinement. Food is paltry and people go hungry. Temperatures are frigid; those who cannot afford to buy sweatshirts from the exorbitantly priced commissary suffer in the cold, some wearing socks on their arms as makeshift sleeves. Friends and family members who travel to the Mojave Desert to see their loved ones must do so across heavy people detained at California City cannot touch or hug their children. The facility sharply limits access to lawyers, leaving people bewildered and largely incommunicado.*

Ruiz v, Immigr. & Customs Enf't, No. 3:25-cv-09757 (N.D. Cal. Nov. 12, 2025). Compl. at ¶ 4.

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56. Of particular relevance to Petitioner's plight are the inadequate and substandard medical care and neglect of detainees' serious medical conditions occurring at the California City Detention Facility. According to that Complaint:

> *The medical care system at California City is broken at every level. People with serious medical conditions such as heart disease, diabetes, and asthma do not receive essential medications at arrival. When medications are reordered, delivery is interrupted or stopped arbitrarily. Requests for medical attention go unanswered for weeks, or are never answered at all. When people finally see a medical professional, the care they receive is dangerously poor. Providers fail to document exams, do not address abnormal lab results, and fail to order necessary treatment in a timely manner. People who require medical attention for conditions such as prostate cancer and heart failure are told that there are no contracts for such services. As a result, people in custody at California City are at severe and ongoing risk of permanent, even life-threatening harm.*

Id. at ¶5

57. Prior to arrest, Sergio received treatment for a range of health conditions: damage to a coronary artery ("heart fissure"), a neurological disorder called Cortical Dysplasia, and anxiety and depression. He also is experiencing a severe toothache while detained in California City. *Decl. of Kristina McKibben* ¶¶6, 25-27.

58. On or around December 17 and 18, 2025, Sergio submitted two consecutive requests for medical attention, the most urgent of which was his searing tooth pain. Sergio has not received an evaluation of his heart, neurological condition, anxiety or depression, and the conditions at California City have created intense physical and emotional distress. *Id.* at 26

59. Additionally, the temperatures are freezing, and Sergio developed a severe cough – hindering his ability to speak for long. *Id.* at ¶26

60. Moreover, he has been outside for approximately 30 minutes, total, since entering the facility, and on one occasion he was fed just one meal after nearly 12 hours without access to food or water. *Id* at ¶27

61. Sergio remains in immigration custody, despite no evidence that he may be removed, and suffers from loss of access to medical and dental care, his family support system, and lost wages from his two jobs at a restaurant Wednesday to Sunday and painting homes.

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CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution and 8 U.S.C. §1231(a)(6) (Substantive Due Process—Detention)

62. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

63. Because Sergio's removal is not reasonably foreseeable and there is no other justification for his detention, his detention is neither authorized by 8 U.S.C. § 1231(a)(6) nor related to any legitimate government interests, in violation of the substantive due process protections of the Fifth Amendment.

64. Because Sergio is in [administratively closed] INA §240 immigration removal proceedings, he is detained under §§ 1226(a) and 1225(b)(2) which govern the detention of noncitizens with pending removal proceedings. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") of 1996, Pub. L. No. 104-–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

65. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; and Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

66. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an Immigration Judge or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that §

1226(a) simply "restates" the detention authority previously found at § 1252(a)).

67. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[4] claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

68. On September 5, 2025, the BIA adopted this same position in a published decision: *Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025). There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings, rendering them subject to mandatory detention in a sharp departure from over twenty years of interpretation. *Id.*

69. Dozens of courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE. *See, e.g., O.P.A.M. v. Wofford*, No. 1:25-cv-01423 JLT SAB (E.D. CA Nov. 7, 2025); *F.M.V. v. Wofford*, No. 1:25-cv-01381-KES-SAB (HC) (E.D. CA Nov. 4, 2025) (petitioner disputed DHS' allegations of several missed ICE check-in dates, yet petitioner's immediate release was ordered and motion for preliminary injunction was granted.; 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025);) *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Arrazola-Gonzalez v. Noem*, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025).

70. Courts have uniformly rejected DHS's and EOIR's new interpretation because it defies the INA. As one court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." *Rodriguez Vazquez v. Bostock et. al.*, No. 3:2025-cv-05240 (W.D. Wash. 2025). These removal hearings are held under § 1229(a), to "decid[e] the

[4] Available at https://www.aila.org/library/ice-memo-interim-guidanceregarding-detention-authority-for-applications-for-admission.

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inadmissibility or deportability of a[] [noncitizen]." *Id.*

71. The mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing and working in the United States with the authorization of DHS at the time they were apprehended. Should the government now attempt to reclassify Petitioner as detained under § 1225(b)(2)(A) after initially releasing him under § 1226(a), courts have found this to be an impermissible post hoc rationalization.

72. Pursuant to 8 U.S.C. § 1226(b), "[t]he Attorney General at any time may revoke a bond or parole authorized under subsection (a), rearrest the alien under the original warrant, and detain the alien." 8 U.S.C. § 1226(b). The implementing regulations elaborate that "such release [under § 1226] may be revoked at any time in the discretion of" various DHS officials, "in which event the alien may be taken into physical custody and detained." 8 C.F.R. §1236.1(c)(9). However, DHS may not re-arrest that noncitizen absent a change in circumstance. See *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal.2017), aff'd sub nom. *Saravia* for *A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) ("[w]here the release decision was made by a DHS officer, not an immigration judge, the Government's practice has been to require a showing of changed circumstances before re-arrest.").

SECOND CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution (Procedural Due Process—Detention)

73. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

74. As part of the liberty protected by the Due Process Clause, Petitioner has a weighty liberty interest in avoiding re-incarceration after his release. *See Young v. Harper*, 520 U.S. 143, 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972); see also *Ortega v. Bonnar*, 415 F. Supp. 3d at 969–70 (holding that a noncitizen has a protected liberty interest in remaining out of custody following an IJ's bond determination).

75. Accordingly, "[i]n the context of immigration detention, it is well settled that due

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process requires adequate procedural protections to ensure that the government's asserted justification for physical confinement outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Hernandez*, 872 F.3d at 990 (cleaned up); *Zinermon*, 494 U.S. at 127 (Generally, "the Constitution requires some kind of a hearing before the State deprives a person of liberty or property."). In the immigration context, for such hearings to comply with due process, the government must bear the burden to demonstrate, by clear and convincing evidence, that the noncitizen poses a flight risk or danger to *the community. See Singh v. Holder, 638 F.3d 1196, 1203 (9th Cir. 2011); see also Martinez v. Clark, 124 F.4th 775, 785, 786 (9th Cir. 2024).*

76. Petitioner's re-detention without a pre-deprivation hearing violated due process. Long after deciding to release Petitioner from custody on his own recognizance, Respondents re-detained Petitioner without specifying a changed circumstance, nor providing an opportunity to contest his re-detention before a neutral adjudicator before being taken into custody.

77. Petitioner has a profound personal interest in his liberty. Because he received no procedural protections, the risk of erroneous deprivation is high. And the government has no legitimate interest in detaining Petitioner without a pre-deprivation hearing; bond hearings are conducted as a matter of course in immigration proceedings. See, e.g., *Jorge M.F. v. Wilkinson*, 2021 WL 783561, at*3 (N.D. Cal. Mar. 1, 2021); *Vargas v. Jennings*, 2020 WL 5074312, at *3 (N.D.Cal. Aug. 23, 2020) ("the government's concern that delay in scheduling a hearing could exacerbate flight risk or danger is unsubstantiated in light of petitioner's strong family ties and his continued employment during the pandemic as an essential agricultural worker")

THIRD CLAIM FOR RELIEF

Violation of the Fourth Amendment to the United States Constitution (Unlawful Arrest)

78. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

79. The Fourth Amendment protects the right of persons present in the United States to be free from unreasonable seizures by government officials.

80. Petitioner was re-detained in the interior of the United States at his home and is

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currently detained under 8 U.S.C. § 1226(a). Detention under 8 U.S.C. § 1226(a) must serve a legitimate government purpose of mitigating danger or preventing flight. See *Zadvydas*, 533 U.S. at 690; 8 U.S.C. §1226(a), (b); 8 C.F.R. 1236.1(c)(8).

81. Petitioner's prior release in 2022 necessarily reflects a determination that the noncitizen is neither a flight risk nor a danger to the community. 8 C.F.R. 1236.1(c)(8) (outlining requirements for release on recognizance); 8 C.F.R. 212.5(b) (outlining requirements for parole).

82. Thus, his re-detention pursuant 8 U.S.C. § 1226(a) requires an individualized determination of a material change in circumstances going to flight risk or danger in order for his re-detention to serve a regulatory purpose.

83. Petitioner's re-detention violates the INA, given he was not afforded an individualized determination of a material change in circumstances related to flight risk or danger to justify re-detention.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

1. Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody;

2. Declare that Petitioner's arrest and detention violate the Due Process Clause of the Fifth Amendment, the Fourth Amendment, the Administrative Procedure Act and the Immigration and Nationality Act.

3. Enjoin Respondents from transferring Petitioner outside this District or deporting Petitioner pending these proceedings;

4. Enjoin Respondents from re-detaining Petitioner unless his re-detention is ordered at a custody hearing before a neutral arbiter in which the government bears the burden of proving, by clear and convincing evidence, that Petitioner is a flight risk or danger to the community;

5. Set aside Respondents' unlawful practice pursuant to 5 U.S.C. §706(2) as contrary to law, contrary to constitutional right, and in excess of statutory authority;

6. Award Petitioner his costs and reasonable attorneys' fees in this action as provided

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for by the Equal Access to Justice Act and 28 U.S.C. § 2412; *and*

7. Grant such further relief as this Court deems just, proper and appropriate.

Dated: December 22, 2025

Respectfully Submitted,

COMMUNITY JUSTICE ALLIANCE

By: */s/ Kristina McKibben*
Kristina McKibben
Attorney for Petitioner,
Sergio SOSA MIRANDA

COMMUNITY JUSTICE ALLIANCE
1809 S Street, Suite 101 BOX 291
Sacramento, CA 95811
T: 888.585.4917 – F. 888.585.4927

VERIFICATION

I, Kristina McKibben, declare as follow:

I am an attorney admitted to practice law in the State of California. Because many of the allegations of this Petition require a legal knowledge not possessed by Petitioner, I am making this verification on his behalf. I have read the foregoing Petition for Writ of Habeas Corpus and know the contents thereof to be true to my knowledge, information, or belief. I certify under penalty of perjury that the foregoing is true and correct and that this declaration was executed on December 21, 2025.

/s/ Kristina McKibben
Kristina McKibben

COMMUNITY JUSTICE ALLIANCE
1809 S Street, Suite 101 BOX 291
Sacramento, CA 95811
T: 888.585.4917– F: 888.585.4927